

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	00 C 2545	DATE	5/25/2000
CASE TITLE	USA ex rel. Phillip Williams #B-030 vs. Warden Guy Pierce		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

(1) Filed motion of [use listing in "Motion" box above.]

(2) Brief in support of motion due _____.

(3) Answer brief to motion due _____. Reply to answer brief due _____.

(4) Ruling/Hearing on _____ set for _____ at _____.

(5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(7) Trial[set for/re-set for] on _____ at _____.

(8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.

(9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 FRCP4(m) General Rule 21 FRCP41(a)(1) FRCP41(a)(2).

(10) [Other docket entry] Enter Memorandum Opinion and Order. Williams' application to proceed in forma pauperis is denied and he is ordered to pay the \$5 filing fee on or before June 25, 2000, failing which the Petition will be dismissed. (3-1) This Court orders--in accordance with Rule 4 of the Rules Governing Section 2254 Cases--the respondent is to file an answer or other pleading on or before July 7, 2000. Petitioner's motion for appointment of counsel is denied without prejudice to its renewal. (4-1)

(11) [For further detail see order attached to the original minute order.]

No notices required, advised in open court.	No notices required.	number of notices	Document Number
Notices mailed by judge's staff.	Notified counsel by telephone.	MAY 30 2000	
Docketing to mail notices.	Mail AO 450 form.	date docketed	
Copy to judge/magistrate judge.		docketing deputy initials	
SN	courtroom deputy's initials	5/26/2000	
		Date/time received in central Clerk's Office	
		SN	
		mailing deputy initials	

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES ex rel. PHILLIP)
WILLIAMS #B-03095,)
Petitioner,)
v.) No. 00 C 2545
WARDEN GUY PIERCE,)
Respondent.)

MEMORANDUM OPINION AND ORDER

Phillip Williams ("Williams") has submitted several documents in connection with his effort to obtain federal habeas relief under 28 U.S.C. §2254¹ from the state court conviction and sentence on which he is now serving an 18-year term at the Pinckneyville Correctional Center ("Pinckneyville"): his Petition for Writ of Habeas Corpus ("Petition"), his Application To Proceed Without Prepayment of Fees ("Application") and his Motion for Appointment of Counsel ("Motion"). This memorandum order addresses each of Williams' filings.

DOCKETED
MAY 30 2000

First as to the Application, it seems that Williams is unaware of the exceedingly modest filing fee (only \$5) that is required in habeas cases. Although he had no balance in his

¹ All further references to Title 28's provisions will simply take the form "Section--."

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Pinckneyville trust fund account as of the computerized runoff date of April 12, 2000, the Application reflects that he has a prison job that pays him \$15 a month. Accordingly the Application is denied, and Williams is ordered to pay the \$5 filing fee on or before June 25, 2000 (that time period should allow his account to be replenished by his current payroll deposit), failing which the Petition will be dismissed.

This order turns to the Petition itself. According to Petition ¶II.1, it appears to have been filed within the one-year time frame specified by Section 2244(d). As for the merits of Williams' claims (without any substantive determination, or any implication of one, being intended as to the ultimate viability of one or more of those claims), this Court orders--in accordance with Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts--the respondent Warden to file an answer or other pleading on or before July 7, 2000.

Finally, the Motion improperly responds "N/A" to the question in that form as to what efforts Williams has made to retain counsel to represent him. That nonresponse is contrary to the teaching from our Court of Appeals, which requires that every pro se litigant who seeks to obtain appointed counsel must identify the efforts that have been made on his or her own in

that regard. In any event, however, any decision as to the appointment of counsel would be premature until this Court has had an opportunity to see the nature of the response to the Petition. Accordingly the Motion is denied, without prejudice to its renewal (in proper form) after the response to the Petition is in hand.



Milton I. Shadur
Senior United States District Judge

Date: May 25, 2000